

1 THE HONORABLE JOHN C. COUGHENOUR
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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 UNITED STATES OF AMERICA,

11 Plaintiff,

12 v.

13 SUMIT GARG,

14 Defendant.

CASE NO. CR21-0045-JCC

ORDER

15 This matter comes before the Court on the parties' stipulated motion for protective order
16 (Dkt. No. 25). Having thoroughly considered the motion and the relevant record, the Court
17 hereby GRANTS the motion and ORDERS the parties to comply with the following protective
18 order:

19 Pursuant to Federal Rule of Criminal Procedure 16(d)(1), this Protective Order governs
20 all discovery material in any format (written or electronic) that is produced by the United States
21 in discovery in the above captioned case. Due to the nature of this case, the discovery materials
22 include personally identifiable information (PII) and other information that could be used to
23 embarrass and intimidate potential victims and witnesses in this case. PII includes, but not be
24 limited to, information such as such as payment card numbers, Social Security numbers, driver's
25 license numbers, dates of birth, addresses, mothers' maiden names, passwords, financial lines of
26 credit numbers, bank account numbers, and personal identification numbers. Redacting the

1 discovery to delete all PII and other sensitive material would unnecessarily delay the disclosure
2 of discovery to the defendant and would frustrate the intent of the discovery process.

3 1. Protected Material

4 The United States will make available copies of the Protected Materials, including those
5 filed under seal, to defense counsel to comply with the government's discovery obligations.

6 Possession of copies of the Protected Materials is limited to the attorneys of record, and
7 investigators, paralegals, law clerks, experts and assistants for the attorneys of record (hereinafter
8 collectively referred to as members of the defense team). The following documents and materials
9 are deemed "Protected Material":

10 a. Grand Jury transcripts and exhibits;

11 b. Victim and witness statements, including but not limited to reports of law
12 enforcement officers memorializing victim and witness statements, and written and recorded
13 statements by the victim and witnesses;

14 c. Personal and other information, including medical records, protection order
15 applications, immigration records, and criminal records relating to or concerning the victim and
16 witnesses. Documents, reports, or writings containing personal information about or related to
17 the victim and witnesses provided by the government in discovery is deemed Protected Material.

18 As used in this Order, the term "personal information" refers to each victim and witness's
19 full name, date of birth, Social Security number (or other identification information), driver's
20 license number, immigration alien number, residence address, telephone number, location of
21 residence, name of employer or employment, school records, criminal records, and other
22 confidential information.

23 2. Scope of Review of Protected Material

24 Defense attorneys of record and members of the defense team may display and review the
25 Protected Material with the Defendant. The attorneys of record and members of the defense team
26 acknowledge that providing copies of the Protected Material to the Defendant and other persons

1 is prohibited and agree not to duplicate or provide copies of Protected Material to the Defendant
2 and other persons.

3 For an in-custody defendant, notwithstanding the terms of this Order, defense counsel
4 may provide a completed copy of the FDC's Electronic Discovery and Legal Material
5 Authorization Form, and electronic copies of any Protected Material to the Education
6 Department in the Federal Detention Center at SeaTac, Washington. Defendant may review the
7 electronic copies of Protected Material in the FDC Education Department pursuant to BOP and
8 FDC SeaTac's policies and procedures but will not be permitted to have a copy of the Protected
9 Material in his cell.

10 3. Dissemination of Protected Material to Counsel for Witnesses

11 Notwithstanding the terms above, counsel for the parties may provide copies of Protected
12 Material to any counsel representing a non-party witness, only when the represented witness is
13 the source of the information or where the Protected Material pertains directly and solely to the
14 represented witness. Counsel for the witness is similarly limited to maintaining possession and
15 custody of the Protected Material. Counsel for the witness may display and review the Protected
16 Material with their client but is prohibited from disseminating copies of the Protected Material to
17 their client or third persons.

18 4. Consent to Terms of Protective Order

19 Members of the prosecution and defense teams shall maintain written consent and
20 acknowledgement that they will each be bound by the terms and conditions of this Protective
21 Order. The written consent need not be disclosed or produced by the parties unless ordered by
22 the Court.

23 5. Parties' Reciprocal Discovery Obligations

24 Nothing in this order should be construed as imposing any discovery obligations on the
25 government or the defendant that are different from those imposed by case law and Rule 16 of
26 the Federal Rules of Criminal Procedure, and the Local Criminal Rules.

1 6. Filing of Protected Material

2 Any Protected Material that is filed with the Court in connection with pretrial motions,
3 trial, sentencing, or other matter before this Court, shall be filed under seal and shall remain
4 sealed until otherwise ordered by this Court or unless otherwise agreed by the parties. This does
5 not entitle either party to seal their filings as a matter of course. The parties are required to
6 comply in all respects to the relevant local and federal rules of criminal procedure pertaining to
7 the sealing of court documents.

8 7. Inspection of Discovery at the USAO

9 The United States may make certain sensitive discovery material, such as Victim-1's
10 diary, available for inspection at the U.S. Attorney's Office for the Western District of
11 Washington ("USAO"). Defense counsel's inspection of electronic discovery materials at the
12 USAO shall be without prejudice to Defendant's right to move the Court for additional discovery
13 materials or the production of electronic discovery materials in a different form. Absent further
14 order of the Court, the United States shall not be obligated to make additional copies of any
15 electronic discovery materials which are available for inspection at the USAO. No one shall
16 photograph, print, or otherwise make copies of the electronic discovery materials made available
17 for inspection at the USAO.

18 8. Non-Termination and Return or Destruction of Discovery Material

19 The provisions of this Order shall not terminate at the conclusion of this prosecution.
20 Within thirty days of the exhaustion of all appeals and collateral review in the instant criminal
21 matter, all discovery material, including copies, shall either be returned to the government, or
22 counsel for the defendant or any witnesses shall certify to the government that Protected
23 Materials have been destroyed.

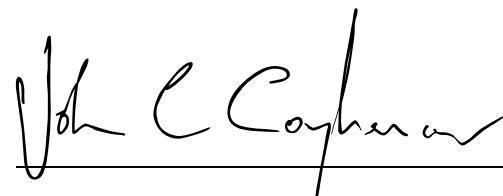
24 9. Violation of Protective Order

25 Any violation of any term or condition of this Order by the Defendant, his/her attorney(s)
26 of record, any member of the defense team, or any attorney for the United States Attorney's

1 Office for the Western District of Washington, may result in that person being held in contempt
2 of court, and/or subject to monetary or other sanctions as deemed appropriate by this Court. If
3 the Defendant violates any term or condition of this Order, the United States reserves its right to
4 seek a sentencing enhancement for obstruction of justice or to file any criminal charges relating
5 to the Defendant's violation.

6 DATED this 29th day of March 2021.

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John C. Coughenour
UNITED STATES DISTRICT JUDGE